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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/712,891 | 11/12/2003 | Cyrus Fuhrmeister | | 9440 |

7590 02/14/2005

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EXAMINER

SHRIVER II, JAMES A

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3618

DATE MAILED: 02/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/712,891

Applicant(s)

FUHRMEISTER, CYRUS

Examiner

J. Allen Shriver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5 and 6 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 5 and 6 is/are allowed.
6) ☒ Claim(s) 1 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 12 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicant's submittal of amendment was received on January 12, 2005, wherein claims 1, 5 and 6 were amended and claims 2-4 were cancelled.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Younger (US Patent 5,221,111) in view of Challoner et al. (US Patent 5,492,254).** Younger discloses a skateboard leash (18a) adapted to be attached to a skateboard (22) comprising a mounting strap, a swivel joint mechanism (20) connected to said mounting strap; and an elongated strap assembly connected to said swivel joint mechanism, said elongated strap assembly having an outer free end, a bulbous member (30) mounted at said outer free end, whereby said bulbous member is adapted to be grasped by the rider with a pulling force to be applied to said elongated strap assembly which will hold the skateboard against the rider's feet when performing aerial maneuvers (See Fig. 4). Younger does not disclose the mounting strap being adapted to be mounted transversely around the skateboard platform. Challoner et al. discloses a mounting strap (28) being adapted to be mounted transversely around the skateboard platform (See Fig. 1).

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At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide a mounting strap that is adapted to be mounted transversely around the skateboard platform for the skateboard leash disclosed in Younger in view of the teaching of Challoner et al. The motivation for doing so would have been to allow the leash to be quickly and securely mounted to a conventional skateboard without having to modify the structure of the skateboard to attach the leash.

Additionally, Younger does not specifically disclose wherein the bulbous member is spherical. However, Younger does disclose that the handle member can assume many shapes and sizes, thus contemplating using a spherical shape. As shown in Figure 3B, the bulbous member is a cylindrical member with a rounded end. At the time of the invention, it would have been obvious to use numerous shapes for the bulbous member, including a spherical shape, so that the rider could easily grasp the end of the leash.

Allowable Subject Matter

4. Claims 5-6 are allowed over the prior art.

Response to Arguments

5. Applicant's arguments filed January 12, 2005 have been fully considered but they are not persuasive. Applicant argues that the applying of Challoner in conjunction with Younger is really not a valid combination because the reference of Challoner constitutes a substantially different structure than the subject matter of the skateboard leash. In response to applicant's argument that the mounting strap disclosed in Challoner constitutes a substantially different

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structure than the skateboard leash, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references.

Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Examiner merely relies on the teaching of Challoner to teach attaching a device (carrying strap) to the skateboard deck using a transverse mounting strap. A person of ordinary skill in this art would have the requisite skill to incorporate the teaching of Challoner into modifying the attachment of the skateboard leash disclosed in Younger.

Applicant also argues that the leash disclosed in Younger does not have an outer free end. Examiner disagrees with this statement because as shown in Figures 3B-3B, the leash has an outer free end.

Regarding Applicant's argument that Younger does not disclose a spherical bulbous member, Examiner has set forth above why it would have been obvious to select to use a spherical bulbous member.

Conclusion

6. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris P. Ellis can be reached on (703) 305-0168. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

As of May 1, 2003, any response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

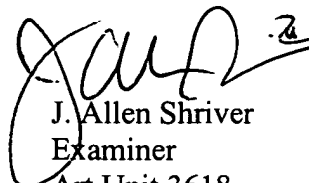
Or faxed to: (703) 305-3597 or (703) 305-7687 (for formal communications intended for entry. (703) 746-3852 (for informal communications directly to the Examiner).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Friday, February 11, 2005

 2/11/05
J. Allen Shriver
Examiner
Art Unit 3618

JAS